

Department of Alcoholic Beverage Control
CLERK'S AFFIDAVIT AND SIGN
(Required by Section 25658.4 Business
and Professions Code)

State of California
GRAY DAVIS, Governor
Business, Transportation and Housing Agency
MARIA CONTRERAS-SWEET, Secretary

Instructions to the Licensee:

Section 25658.4 requires every person who sells alcoholic beverages in your store to read, understand and sign a *Clerk's Affidavit*. You may photocopy this form or create your own. If you create your own, its content must match parts 1 through 4 of this form. You must keep the signed *Clerk's Affidavits* on your licensed premises at all times and make them available for inspection by the Department.

If you have more than one store, you may keep the signed *Clerk's Affidavits* at a location other than your licensed stores. However, you must notify the Department in advance and in writing. If you decide to keep the signed *Clerk's Affidavits* at a location other than your licensed stores, you must maintain at each store a notice of where the signed *Clerk's Affidavits* are kept. In addition, you must provide any signed *Clerk's Affidavits* to the Department, upon its written demand, within 10 days.

Section 25658.4 also requires you to post a sign like the one shown on page 4 in your store. You must post it at your entrance, point of sale or any other location visible to your customers and employees. The sign should be at least 8-1/2 x 11 inches.

Failure to comply with the above may result in the suspension or revocation of your ABC license.

Part 1: REVIEW OF LAWS (*Clerk must read and understand these laws*)

(1) Sales to Underage Persons

You may not *sell, furnish or give away* any alcoholic beverage to any person under the age of 21 years. You may not *cause to be sold, furnished or given away*, any alcoholic beverage to any person under the age of 21 years. If you break this law, you may be arrested and charged with a crime. If convicted, you may be fined \$250 and/or ordered to do up to 32 hours of community service. In addition, if you are under age 21, you will have your driver's license suspended or delayed for one year. (Sections 25658(a) & 25658(e)(1) Business and Professions Code and Section 13202.5 Vehicle Code)

(2) Underage Persons Who Purchase Alcoholic Beverages

A customer under the age of 21 years may not *buy* alcoholic beverages. If a customer breaks this law, they may be arrested and charged with a crime. If convicted, the customer may be fined \$250 and/or ordered to do up to 32 hours of community service. Also, the underage customer will have their driver's license suspended or delayed for one year. (Sections 25658(b) and 25658(e)(1) Business and Professions Code and Section 13202.5 Vehicle Code)

(3) Underage Persons Who Try to Purchase Alcoholic Beverages

A customer under the age of 21 years may not *try to buy* alcoholic beverages. If a customer breaks this law, they may be cited and charged with a crime. The customer may be fined up to \$250 and/or ordered to do up to 48 hours of community service. In addition, the underage customer will have their driver's license suspended or delayed for one year. (Section 25658.5 Business and Professions Code and 13202.5 Vehicle Code)

(4) Checking Identification (I.D.)

If you ask for and see, bona fide (*legally acceptable*) I.D. before you sell an alcoholic beverage to a customer, you can defend yourself against a charge of selling alcoholic beverages to an underage person. An I.D. is legally acceptable if it:

- Is issued by a *government agency* (such as Federal, State, county or city)
- Contains the *name* of the person
- Contains the *date of birth* of the person
- Contains a *description* of the person
- Contains a *photograph* of the person
- Is currently *valid* (in other words, not expired)

Examples of legally *acceptable* I.D.'s are: a driver's license, State-issued I.D. card or Federal military I.D. card. *Caution:* The picture and physical description on the I.D. must match the customer. If the I.D. is altered or mutilated, it is not acceptable. *You must check a customer's I.D. every time you sell alcoholic beverages to that customer.* Examples of *unacceptable* I.D.'s are: temporary driver's licenses, non-photo driver's licenses, birth certificates and school or work I.D. cards. (Section 25660 Business and Professions Code)

(5) Hours of Sale

You may only sell alcoholic beverages from 6:00 a.m. on one day until 2:00 a.m. on the following day. If you break this law, you may be charged with a crime. If convicted, you may be fined up to \$1,000 and/or sent to county jail for up to six months. Customers who knowingly purchase during restricted hours face the same penalties. *Caution:* Some stores must stop selling alcoholic beverages earlier than 2:00 a.m. because of local laws or special conditions (restrictions) on the ABC license. You must obey any special conditions on your store's ABC license. Otherwise, the ABC license at your store may be taken away. (Sections 25631, 25632, 25617 and 23800-23805 Business and Professions Code)

(6) Sales to Obviously Intoxicated Persons

You may not sell or give any alcoholic beverage to any person who *looks or acts intoxicated* (even if they're not driving). If you break this law, you may be arrested and charged with a crime. If convicted, you may be fined up to \$1,000 and/or sent to county jail for up to six months. If you sell or give any alcoholic beverage to an *underage*, obviously intoxicated person, you may be *sued* in civil court. (Sections 25602(a), 25617 and 25602.1 Business and Professions Code)

(7) ABC License Privileges

You or your customers may not drink alcoholic beverages *in* your store or an *adjacent property immediately outside* your store. This includes before, during or after your shift. All alcoholic beverages you sell must be in sealed, unopened bottles, packages or containers. You may not sell an alcoholic beverage to a person if you know that they are going to re-sell the alcoholic beverage to someone else. You may not sell more than 52 gallons of wine to any one customer at any one time. If you break these laws, the ABC license at your store may be taken away. (Sections 23300, 23355, 23393, 23394 and 23402 Business and Professions Code and Rule 27, California Code of Regulations)

(8) Beer Keg Sales (applies if your store sells kegs, six-gallon size or larger)

(a) You must place a *Beer Keg Identification Tag* (Form ABC-287K) on each beer keg at the time of sale; (b) You must have the customer sign a *Beer Keg Registration Receipt* (Form ABC-286K), which includes the name and address of the purchaser and the purchaser's driver's license number or similar form of I.D. number; (c) Your store must keep the *Beer Keg Registration Receipts* at your store for six months and make them available upon request to peace officers (local law enforcement or ABC investigators); (d) You may only return a beer keg deposit to a customer if the keg still has the *Beer Keg Identification Tag* attached. If you break these laws, the ABC license at your store may be taken away.

It is against the law for a customer to (a) Possess a keg containing beer knowing that the keg does not have a *Beer Keg Identification Tag*, or (b) Give false information to your store. If convicted, the customer may be fined a maximum of \$1,000 and/or sent to county jail for up to six months. (Section 25659.5 and 25617 Business and Professions Code)

Part 2: CLERK'S PRIOR VIOLATIONS *(Clerk must check one)*

_____ ***I have never been*** convicted of violating any law in the Alcoholic Beverage Control Act (such as selling an alcoholic beverage to an underage or obviously intoxicated person).

_____ ***I have been*** convicted of violating a law (or laws) in the California Alcoholic Beverage Control Act (such as selling an alcoholic beverage to an underage or obviously intoxicated person). [If you checked this box, please explain in full what happened. Use the space below or a separate sheet of paper, if necessary.]

Part 3: DECLARATION UNDER PENALTY OF PERJURY*(Clerk must complete this section)*

I have read and understand this affidavit. I swear that all statements I have made in this affidavit are true. I swear that I signed this affidavit, on the date stated, under "penalty of perjury." I understand that if I did not tell the truth in this affidavit, I may be found guilty of perjury.

Signature of Clerk_____
Date_____
Name of Clerk (printed)_____
Home Address_____
Street_____
City_____
State_____
Zip_____
Home Telephone_____
Work Telephone**Part 4: ACKNOWLEDGMENT OF LICENSEE***(Licensee must complete this section)*

I have reviewed the attached *Clerk's Affidavit* with the person who signed it. I will keep a signed copy of the *Clerk's Affidavit* at (address):

I understand if I do not have a signed *Clerk's Affidavit* for every person who sells alcoholic beverages in my store, the ABC may discipline my license.

Signature of Licensee *(or licensee's agent)*_____
Date_____
ABC License Number**Part 5: NOTICE TO LICENSEE***(Licensee must read this section, then post sign in store)*

Pursuant to Section 25658.4 of the Business and Professions Code, you must post a sign in your store that warns customers about certain laws and penalties relating to the sale of alcoholic beverages to, or the purchase of alcoholic beverages by, any person under the age of 21 years. The sign must be placed at an entrance or at a point of sale in your store, or in any other location in your store that is visible to your customers and employees. A sample sign that complies with Section 25658.4(b) and (c) is shown on the following page.

NOTICE TO CUSTOMERS

Pursuant to Section 25658.4 Business and Professions Code

This store will not sell alcoholic beverages in violation of the California Alcoholic Beverage Control Act.

We will refuse to sell an alcoholic beverage to any customer if we reasonably suspect that: (1) The customer is under the age of 21 years; (2) The customer looks or acts intoxicated; (3) The request to buy an alcoholic beverage is made between the hours of 2:00 a.m. and 6:00 a.m. on any day or in violation of legally required shorter hours of sale; (4) The customer intends to drink the alcoholic beverage in this store or on adjacent property immediately outside this store; or (5) Any other violation of the California Alcoholic Beverage Control Act will occur as a result of the sale.

FINES AND PENALTIES

for the Sale or Furnishing of Alcoholic Beverages to, or the Purchase of Alcoholic Beverages by, Persons Under Age 21

For the Person Under Age 21 Who Tries to Purchase Alcohol

Up to \$100 fine and/or 24-32 hours of community service; second offense, up to a \$250 fine and/or 36-48 hours of community service (and a one-year suspension or delay of the person's driver's license).

For the Person Under Age 21 Who Purchases Alcohol

A \$250 fine and/or 24-32 hours of community service; second offense, up to a \$500 fine and/or 36-48 hours of community service (and a one-year suspension or delay of the purchaser's driver's license).

For the Person Who Furnishes Alcohol or Causes Alcohol to be Furnished to a Person Under Age 21

A \$1,000 fine and at least 24 hours of community service (and a one-year suspension or delay of the furnisher's driver's license if the furnisher is under age 21). If great bodily injury or death occurs, the penalty is 6-12 months county jail and/or a \$1,000 fine.

For the Person Who Sells Alcohol to a Person Under Age 21

A \$250 fine and/or 24-32 hours of community service; second offense, up to a \$500 fine and/or 36-48 hours of community service (and a one-year suspension or delay of the seller's driver's license if the seller is under age 21).

*In addition, the Department of Alcoholic Beverage Control (ABC)
will file charges to suspend or revoke this store's license to sell alcoholic
beverages.*

--The Management